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NASA Policy Directive

NPD 2000.1G

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 (NASA Only)

Subject: Authority to Take Certain Actions for The General Counsel

Responsible Office: Office of the General Counsel

1. POLICY

It is NASA policy to establish Agency-wide legal policies and procedures in conjunction and coordination with the Center Chief Counsels and to determine best methods and practices for providing legal advice, assistance, and functional guidance inherent in rendering legal services. This NASA Policy Directive (NPD) serves as the delegation from, and governs such delegated authority by, the General Counsel to the various designated Agency counsel to carry out such duties and responsibilities.

2. APPLICABILITY

- a. This NPD applies to NASA Headquarters and NASA Centers, including Component Facilities, and Technical and Service Support Centers.
- b. In the event of any conflict between this NPD and any other NASA directive or regulation, this NPD shall govern and supersede any previous delegation.
- c. In this directive, all mandatory actions (i.e., requirements) are denoted by statements containing the term "shall." The terms "may" or "can" denote discretionary privilege or permission, "should" denotes a good practice and is recommended but not required, "will" denotes expected outcome, and "are/is" denotes descriptive material.

3. AUTHORITY

- a. The National Aeronautics and Space Act, as amended, 51 U.S.C. § 20101 et seq.
- b. NPD 1000.3, The NASA Organization.

4. APPLICABLE DOCUMENTS AND FORMS

- a. The Freedom of Information Act, as amended, 5 U.S.C. § 552.
- b. Equal Access to Justice Act in Agency Proceedings, 14 C.F.R. Pt. 1262.

5. RESPONSIBILITY

a. The Deputy General Counsel is responsible for the following:

- (1) Exercising the authority, performing the duties, or meeting any responsibility of the General Counsel, in the absence of the General Counsel.
- (2) Signing attestations of determinations to grant (or deny waiver of title to) inventions and executing instruments of waiver, when in accordance with the recommendations of the Inventions and Contributions Board and the patent waiver regulations, for the NASA Administrator (see 14 C.F.R. Pt. 1245).
- (3) Providing functional leadership to the Directorate Lead Counsel Program (including Directorate Lead Counsel, Mission Support Office Lead Counsel); NASA Management Office Legal Staff; and any specially detailed counsel.

b. The Associate General Counsel, or designee (within the respective practice area), and the Chief Counsel, or designee (for matters affecting or under the cognizance of the Center or Component Facility), are responsible for the following:

- (1) Executing Certificates of Full Faith and Credit and certifying Agency employees' signatures and authority, whenever such certification is to authenticate copies of official records for possible admission into evidence in judicial proceedings pursuant to 28 U.S.C. § 1733 or any other statute.
- (2) Accepting service of process, pleadings, or other legal papers in actions or proceedings, with acceptance having the same effect as if served upon the Administrator. Upon accepting such service, acknowledging the service and taking further action as appropriate.
- (3) Designating NASA Center Counsel and/or providing legal representation in any action or proceeding before any forum (judicial, administrative, or regulatory).
- (4) Designating a NASA attorney to serve as a member on any council, board, committee, or ad hoc working group or task team.
- (5) Determining, in accordance with 14 C.F.R. Pt. 1263, whether NASA should grant or deny requests or demands to produce or disclose information or records relating to official information acquired as part of official duties. For cases with potential Agency-wide impact, the Chief Counsel must notify the Office of the General Counsel before making a final determination to deny a request for information.
- (6) Determining, in accordance with 14 C.F.R. Pt. 1263, whether NASA should grant or deny requests or demands for present or former NASA employees to appear to testify if the testimony relates to official information acquired as part of official duties. For cases with potential Agency-wide impact, the Chief Counsel must notify the Office of the General Counsel before making a final determination to grant a request for testimony.
- (7) Performing the broad range of duties in their area of jurisdiction or delegated authority.

c. The Associate General Counsel (Commercial and Intellectual Property Law Practice Group), or designee, in addition to the responsibilities under paragraph 5b, and the Patent or Intellectual Property Counsel, or designee, for the respective NASA installation(s), are responsible for:

- (1) Taking those actions required or permitted pursuant to any provision of Titles 15, 17, 35, 42, and 51 of the U.S. Code to secure, maintain, and enforce any patent, copyright, trademark, or other forms of intellectual property in which NASA has an interest.
- (2) Determining whether legal requirements have been satisfied before NASA may grant, deny, modify, or terminate licenses under all intellectual property, including patents, copyrights, trademarks, and mask work rights owned by NASA.

6. DELEGATION OF AUTHORITY

a. The Associate General Counsel (General Law Practice Group), or designee, and each Chief Counsel, or designee, for the respective installation(s), are delegated the following authority:

- (1) Settle any claim against NASA less than \$5,000 made by, or on behalf of, a NASA employee for damage to, or loss of, personal property incident to service with NASA, whether by full or partial allowance or disallowance (see 14 C.F.R. § 1261.1).
- (2) Consider (including ascertain, adjust, and determine), compromise, or settle, and pay less than \$10,000, or deny, on behalf of the United States, any tort claim arising from the activities of NASA (see 14 C.F.R. § 1261.3).
- (3) Approve attorney fees less than \$10,000 pursuant to the Equal Access to Justice Act (EAJA) or other relevant statute(s) (see 14 C.F.R. Pt. 1262).

b. The Associate General Counsel (General Law Practice Group), or designee, is also delegated the following authority:

- (1) Serve as the Alternate Designated Agency Ethics Official on conflict of interest and standards of conduct issues.
- (2) Act for the General Counsel as liaison with the Department of Justice under the Attorney General's Supplemental Guidelines implementing Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.
- (3) Serve as the point of contact for compliance with Executive Order 12988, Civil Justice Reform.

c. The Associate General Counsel (Contracts and Procurement Law Practice Group), or designee, is delegated authority to provide legal advice on matters related to procurement integrity and procurement-related organizational conflict-of-interest issues and to coordinate matters of contracts and procurement between and among NASA Centers, working through the Chief Counsel of those Centers.

d. The Associate General Counsel (International Law Practice Group), or designee, is delegated authority to prepare final determinations on appeals pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and to provide legal advice on international law-related matters.

e. The Associate General Counsel (Commercial and Intellectual Property Law Practice Group), or designee, is delegated the following authority:

- (1) Provide, under the policy direction of the General Counsel, functional direction to all Patent and Intellectual Property Counsel and provide legal advice on commercial and intellectual property-related matters.
- (2) Provide legal advice related to all aspects of NASA commercial activities and render opinions on legal issues arising under NASA's "other transaction" authority provided in 51 U.S.C. §20113(e), and to coordinate matters of commercial activities and legal issues arising under NASA's "other transaction" authority between and among NASA Centers, working through the Chief Counsel of those Centers.
- (3) Appoint and/or revoke principal attorneys and execute powers of attorney necessary for obtaining and maintaining intellectual property protection, including patents, trademark registrations, and copyrights.
- (4) Exercise all powers of the Administrator with respect to secrecy orders in patent cases and foreign filings.
- (5) Transfer custody and administration, in whole or in part, to another Federal agency of

the rights, title, and interest in any invention which the Administrator holds on behalf of the United States Government.

(6) Determine whether to give express authorization and consent for the use and manufacture of patented inventions in activities undertaken by the United States Government for a person or entity other than the United States Government.

(7) Make determinations of property rights in any intellectual property in which NASA may have an interest and take any action required or permitted by law regarding such intellectual property. These include inventions made by Government employees; inventions made in the performance of work under contracts, grants, and agreements pursuant to the Space Act and the Bayh-Dole Act; and works of the United States Government (see 37 C.F.R. Pt. 501, 17 U.S.C. Chapters 1 - 13, 35 U.S.C. Chapter 18, and 51 U.S.C. § 20135).

(8) Accept, on behalf of the United States, licenses under, assignments of, and other rights in and to, all intellectual property, including patents, copyrights, trademarks, and mask works.

(9) Review, recommend, and negotiate matters related to intellectual property rights relating to procurement contracts, grants, cooperative agreements, cooperative research and development agreements (CRADAs), and agreements entered under the Space Act related to intellectual property rights (see 31 U.S.C. §§ 6303, 6304, and 6305, 15 U.S.C. § 3710a, and 51 U.S.C. § 20113(e)).

f. The legal counsel to whom the above responsibilities and authorities are delegated or redelegated shall ensure that the General Counsel is kept fully and currently informed of significant actions, problems, or other matters of substance.

7. MEASUREMENT/VERIFICATION

The General Counsel will assess compliance by the designated legal counsel of the Agency with paragraph 6(f) of this NPD through the existing communications and reporting channels.

8. CANCELLATION

NPD 2000.1F, Authority to Take Certain Actions for The General Counsel, dated March 12, 2007.

/s/ Charlie F. Bolden
Administrator

ATTACHMENT A: REFERENCES

A.1 The Privacy Act of 1974, as amended, 5 U.S.C. § 552a.

A.2 The Stevenson-Wydler Technology Innovation Act of 1980, as amended, 15 U.S.C. § 3701 et seq.

A.3 The Copyright Act, 17 U.S.C. § 101 et seq.

A.4 Patent and Copyright Cases, 28 U.S.C. § 1498.

- A.5 Government Records and Papers; Copies, 28 U.S.C. § 1733.
- A.6 The Chiles Act, 31 U.S.C. § 6301 et seq.
- A.7 Patent Rights in Inventions Made with Federal Assistance, 35 U.S.C. § 200 et seq.
- A.8 Commercial Space Launch Act, 51 U.S.C. §§ 50901-50903.
- A.9 Commercial Space Competitiveness Act, 51 U.S.C. §§ 50501-50506.
- A.10 Implementation by Governmental Entities, 5 C.F.R. Part (Pt.) 581.
- A.11 Commercial Garnishment of Federal Employees' Pay, 5 C.F.R. Pt. 582.
- A.12 Patents and Other Intellectual Property Rights, 14 C.F.R. Pt. 1245.
- A.13 Processing of Monetary Claims (General), 14 C.F.R. Pt. 1261.
- A.14 Demand for Information or Testimony Served on Agency Employees; Procedures, 14 C.F.R. Pt. 1263.
- A.15 Implementation of the Program Fraud Civil Penalties Act of 1986, 14 C.F.R. Pt. 1264.
- A.16 Uniform Patent Policy for Rights in Inventions Made by Government Employees, 37 C.F.R. Pt. 501.
- A.17 Patents, Data, and Copyrights, 48 C.F.R. Pt. 27.
- A.18 Patents, Data, and Copyrights (NASA FAR Supplement), 48 C.F.R. Pt. 1827.
- A.19 Exec. Order No. 12591, 3 C.F.R. 220 (1987), Facilitating Access to Science and Technology, as amended by Exec. Order No. 12618.
- A.20 Exec. Order No. 12630, 3 C.F.R. 554 (1988), Governmental Actions and Interference with Constitutionally Protected Property Rights.
- A.21 Exec. Order No. 12988, 61 Fed. Reg. 4727 (February 9, 1996), Civil Justice Reform.

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None.

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